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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LARRY DONNELL DUNLAP, Plaintiff - Appellant, v. PRETRIAL SERVICES; et al., Defendants - Appellees.	No. 05-16505 D.C. No. CV-04-00296-RCC MEMORANDUM[*]

Appeal from the United States District Court
for the District of Arizona
Raner C. Collins, District Judge, Presiding

Submitted May 15, 2006[**]

Before: B. FLETCHER, TROTT, and CALLAHAN, Circuit Judges.

Larry Donnell Dunlap, an Arizona state prisoner, appeals pro se from the district court's order dismissing his 42 U.S.C. § 1983 action against multiple defendants alleging violation of his Fourteenth Amendment rights. We have

[*] This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

[**] The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal for failure to state a claim under the screening provisions of 28 U.S.C. §§ 1915A, *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), and 1915(e)(2)(B)(ii), *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998). We affirm.

The district court properly dismissed plaintiff's action because Dunlap failed to state a cognizable claim against any of the defendants and the deficiencies in his complaint cannot be cured by amendment. *See Lucas v. Dep't of Corrections*, 66 F.2d 245, 248 (9th Cir. 1995) (per curiam).

Dunlap failed to state a claim against John and Jane Doe of Pretrial Services because absolute immunity shields judges and those performing judge-like functions from liability for acts performed in their official capacity. *See Ashelman v. Pope*, 793 F.3d 1072, 1075 (9th Cir. 1986).

There is no cognizable claim against Cynthia Ryan and Barbara LaWall because both are entitled to absolute prosecutorial immunity. *See Imbler v. Pachtman*, 424 U.S. 409, 427 (1975). Furthermore, LaWall cannot be sued in her capacity as the chief county attorney for actions taken by her staff. *See Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989).

Dunlap failed to state a claim against public defender Harriette Levitt because she was not acting under color of state law. *See Polk County v. Dodson*, 454 U.S. 312, 321 (1981).

The district court properly determined that the claim against Andrew Novak was barred because it implied the invalidity of Dunlap's conviction. *See Heck v. Humphrey*, 512 U.S. 477, 483-84 (1994). .

Dunlap's remaining claims are without merit and were properly dismissed. *See Price v. State of Hawaii*, 939 F.2d 702, 707-09 (9th Cir. 1991) (holding private actors are not acting under the color of state law for the purposes of section 1983 liability); *see also Briscoe v. LaHue*, 460 U.S. 325, 329-32 (1983) (holding witnesses are absolutely immune from suit for damages with respect to testimony); *Arizonans for Official English v. Arizona*, 520 U.S. 43, 69 (1997) (holding states are not persons for the purposes of section 1983).

AFFIRMED.